

State of Wisconsin



1995 Senate Bill 164

Date of enactment: **February 26, 1996**

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1995 WISCONSIN ACT 142

AN ACT to renumber and amend 159.11 (2m) (d); **to amend** 159.07 (7) (a) and 159.11 (2) (b); and **to create** 159.07 (7) (f), (g) and (h) and 159.11 (2p) of the statutes; **relating to:** exemptions from the prohibitions on incinerating certain materials and on disposing of certain materials in landfills.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 159.07 (7) (a) of the statutes is amended to read:

159.07 (7) (a) The prohibitions in subs. (3) and (4) do not apply with respect to solid waste, except medical waste, as defined in par. (c) 1. *cg.*, that is generated in a region that has an effective recycling program, as determined under s. 159.11, and, if the region is not in this state, the region is located in a state that has an effective siting program, as determined under s. 159.12. This paragraph does not apply to solid waste that is separated for recycling as part of an effective recycling program under s. 159.11.

SECTION 2. 159.07 (7) (f), (g) and (h) of the statutes are created to read:

159.07 (7) (f) The prohibitions in subs. (2) and (3) do not apply to the beneficial reuse of a material within a solid waste disposal facility if the beneficial reuse of the material is approved in the solid waste disposal facility's plan of operation under s. 144.44 (3).

(g) 1. Except as provided in subd. 2., the department may grant a waiver or conditional waiver to a restriction in sub. (3) or (4) if all of the following apply:

a. The applicant shows to the satisfaction of the department that the recyclable material has been contaminated and cannot feasibly be cleaned for recycling.

b. The department determines that granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policy under s. 159.05.

2. The department may not grant a waiver or a conditional waiver under subd. 1. for material that has been intentionally or negligently contaminated.

(h) 1. The department may grant a waiver or conditional waiver to a restriction under sub. (3) (c) or (h) or (4) (c) or (i) for plastics other than polyethylene terephthalate or high-density polyethylene if the department determines all of the following:

a. Recycling of the material is not feasible or practical in light of current markets or available technologies.

b. Granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policy under s. 159.05.

2. A waiver or conditional waiver under this paragraph shall continue in effect until one year after the department determines that a condition under subd. 1. a. or b. is no longer met.

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 3. 159.11 (2) (b) of the statutes is amended to read:

159.11 (2) (b) A requirement that the occupants of single-family residences, buildings containing 2 or more dwelling units and commercial, retail, industrial and governmental facilities in the region either separate the materials identified in s. 159.07 (3) and (4) from postconsumer waste generated in the region or treat that postconsumer waste at a facility that will recover those materials from solid waste in as pure a form as is technically feasible, ~~except that this paragraph does not apply to postconsumer waste burned at a facility described in s. 159.07 (7) (bg).~~

SECTION 4. 159.11 (2m) (d) of the statutes is renumbered 159.11 (2p) (c) and amended to read:

159.11 (2p) (c) The department may grant a responsible unit ~~with an effective recycling program a variance an~~ exception to a requirement in sub. (2) (b) or (er) for up to one year for a material ~~identified in s. 159.07 (3) or (4) in the event of an unexpected emergency condition that is~~ subject to an exception under s. 159.07 (7) (d).

SECTION 5. 159.11 (2p) of the statutes is created to read:

159.11 (2p) MATERIALS EXCEPTED FROM PROHIBITIONS ON LAND DISPOSAL AND INCINERATION. (a) The requirements of sub. (2) (b) and (er) do not apply to a material that is subject to an exception under s. 159.07 (7) (b), (bg) or (c) or a waiver or conditional waiver under s. 159.07 (7) (h).

(b) The requirements of sub. (2) (er) do not apply to a material that is subject to an exception under s. 159.07 (7) (f) or a waiver or conditional waiver under s. 159.07 (7) (g).

(d) A responsible unit may not prohibit the beneficial reuse of a material within a solid waste disposal facility if the beneficial reuse of the material is approved in the solid waste disposal facility's plan of operation under s. 144.44 (3).

(e) A responsible unit may not prohibit the disposal in a solid waste disposal facility or the burning in a solid waste treatment facility of any material for which the department has granted a waiver or conditional waiver under s. 159.07 (7) (g).